

AN ORDINANCE

**DECLARING THE MARBACH PHASE I – MILITARY TO PINN ROAD PROJECT (“PROJECT”) TO BE A PUBLIC PROJECT., AN AUTHORIZED 2003-2007 GENERAL OBLIGATION STREET IMPROVEMENT BOND PROJECT, LOCATED IN COUNCIL DISTRICT 6; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE FEE SIMPLE TITLE TO CERTAIN PRIVATELY OWNED REAL PROPERTY, BY NEGOTIATIONS AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS AS A PART OF THE PROJECT, TO WIT, ALL OR PORTIONS OF THE PROPERTIES BEING DESCRIBED AS: (1) BEING A 0.0509 ACRE (2,216 SQUARE FEET) TRACT OF LAND BEING OUT OF AND A PORTION OF BLOCK 50 AND 51 (21.076 ACRES), NEW CITY BLOCK 15403; (2) BEING A 0.0059 ACRE (255 SQUARE FEET) TRACT OF LAND BEING OUT OF AND A PORTION OF PARCEL 24A, BLOCK 51, NEW CITY BLOCK 15403; (3) BEING A 0.0125 ACRE (546 SQUARE FEET) TRACT OF LAND BEING OUT OF AND A PORTION OF PARCEL 53C TRI, BLOCK 52, NEW CITY BLOCK 15569; AND (4) BEING A 0.0257 ACRE (1,119 SQUARE FEET) TRACT OF LAND BEING OUT OF AND A PORTION OF BLOCK 52, LOTS 53, 53E AND 55, NEW CITY BLOCK 15569; IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE AS PART OF THIS PROJECT; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS IN THE AMOUNT OF \$13,300.00 FROM 2003-2007 GENERAL OBLIGATION STREET IMPROVEMENT BOND FUNDS FOR THE PROJECT INCLUDING MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECT SUCH AS APPRAISALS AND ATTORNEY’S FEES; AUTHORIZING THE CITY STAFF AND/OR ITS DESIGNATED REPRESENTATIVES TO NEGOTIATE WITH AND TO ACQUIRE THE PROPERTY FROM THE OWNERS ON THE APPROVED TERMS; AND AUTHORIZING THE CITY ATTORNEY AND/OR DESIGNATED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS.**

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**WHEREAS**, the Project is in the best interest of the health, safety and welfare of the public; and

**WHEREAS**, it is further necessary to obtain and acquire the fee simple title and/or easement interest in four (4) parcels of land for use as part of the Project and the property to be acquired is described in Section 3 below, and more fully in **Exhibit A** attached hereto and incorporated herein for all purposes; and

**WHEREAS**, in order to proceed with the acquisition of the property, it is also deemed necessary and appropriate to establish just compensation for the Property to be acquired; and

**WHEREAS**, independent appraisals for the Property to be acquired have been completed and reviewed by the City’s staff of the Real Estate Section of the Public Works Department and a fair market value determined for the Property; and

**WHEREAS**, title fees, legal fees, appraisal fees, right of entry fees, miscellaneous expenses to prepare each parcel for use, and lender fees will have to be paid as necessary expenses for the completion of the Project; and

**WHEREAS**, funds are available to acquire the necessary right of way and pay the necessary expenses for this project; **NOW THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The Marbach Road Phase I – Military Drive to Pinn Road Project is hereby declared to be a necessary public project.

**SECTION 2.** The City Council of the City of San Antonio finds a public necessity exists to acquire the fee simple title to and/or easement(s) to certain privately owned real property, by negotiation and/or condemnation, if necessary, for the location, construction, operation, reconstruction, improvement, repair and maintenance of public improvements including but not limited to street, drainage and/or utility improvements as part of the Marbach Road Phase I – Military Drive to Pinn Road Project in San Antonio, Bexar County, Texas.

**SECTION 3.** A specific public necessity exists to acquire by negotiation and/or condemnation; if necessary, the property more specifically described in **Exhibit A** incorporated herein for all purposes. Collectively, the properties may be referred to as the “Property”.

**SECTION 4.** The approved compensation for the Property is shown in **Exhibit B** which is attached hereto and incorporated herein for all purposes.

**SECTION 5.** The following financial adjustments are hereby authorized to effect this Ordinance:

A. The amount of \$13,300.00 is appropriated in SAP fund 45801000, 2003 General Improvement Street Improvement, WBS **GO-00044-01-01-48** SAP GL account 6102100 - Interfund Transfers Out, entitled Transfer to **23-00139-90-04**. The amount of \$13,300.00 is authorized to be transferred from SAP fund 45801000 to SAP fund 45099000.

B. The budget in SAP fund 45099000, General Obligations Capital Projects, Project Definition 23-00139, Marbach Road Phase I – Military Drive to Pinn Road, shall be revised by increasing WBS element **23-00139-90-04**,, entitled “TRF FR **GO-00044-01-01-48**”, SAP GL Account 6101100 - Interfund Transfers In, by the amount of \$13,300.00.

C. The amount of \$4,600.00 is appropriated in Fund 45099000 General Obligation Capital Projects, SAP project definition 23-00139, Marbach Road Phase I – Military Drive to Pinn Road, general ledger account 5209010 “Land Acquisition”, WBS 23-00139-03-02-04, is authorized to be encumbered and made payable for land acquisition.

D. The amount of \$3,500.00 is appropriated in Fund 45099000 General Obligation Capital Projects, SAP project definition 23-00139, Marbach Road Phase I – Military Drive to Pinn Road,

general ledger account 5201050 "Legal Fees", WBS 23-00139-03-02-03, is authorized to be encumbered and made payable for legal fees.

E. The amount of \$1,000.00 is appropriated in Fund 45099000 General Obligation Capital Projects, SAP project definition 23-00139, Marbach Road Phase I – Military Drive to Pinn Road, general ledger account 5201160 "Appraisal Fees", WBS 23-00139-03-02-02, is authorized to be encumbered and made payable for appraisal fees.

F. The amount of \$2,000.00 is appropriated in Fund 45099000 General Obligation Capital Projects, SAP project definition 23-00139, Marbach Road Phase I – Military Drive to Pinn Road, general ledger account 5209010 "Land Acquisition", WBS 23-00139-03-02-05, is authorized to be encumbered and made payable for land acquisition.

G. The amount of \$2,200.00 is appropriated in Fund 45099000 General Obligation Capital Projects, SAP project definition 23-00139, Marbach Road Phase I – Military Drive to Pinn Road, general ledger account 5209010 "Land Acquisition", WBS 23-00139-03-02-05, is authorized to be encumbered and made payable for land acquisition.

H. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager, the Interim City Manager, or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 6.** The City staff is hereby directed to negotiate with the owner(s) of the respective parcels for the acquisition of the Property at fair market value as found in Section 4, above, to execute sales agreements purchasing the Property from the owners as the owner's are identified by a Commitment for Issuance of Title Insurance issued by a title insurance company authorized to conduct such practice in the State of Texas and in Bexar County or by order of a Court of competent jurisdiction and to finalize such purchases on behalf of the City of San Antonio. The City Council finds that it is in the best interest to obtain the Property from whomever holds legal and equitable title as identified according to the procedure adopted through this Ordinance and the Director of Finance is directed to disburse funds in accordance herewith.

**SECTION 7.** In the event that the City staff is unable to acquire one of more parcels of the Property by negotiation by reason of its inability to agree with the owners thereof as to the value of the parcels, or is unable to acquire the parcels for any other reason, the City Manager, through the City Attorney and/or designated special counsel under the direction of the City Attorney, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn the property. The City Attorney is hereby authorized to retain the services of the law firm of Davidson & Troilo, P.C. and the law firm of Bracewell & Giuliani, L.L.P., and the law firm of Oppenheimer, Blend, Harrison & Tate, Inc. as special counsel as may be needed from time to time and to pay for the services rendered from the appropriations set aside herein or such other appropriations as may be made for the purpose.

**SECTION 8.** Staff is authorized to transfer funds within the project budget to accomplish the project, in accordance with established financial procedures.

**SECTION 9.** This Ordinance shall be effective on May 29, 2005.

**PASSED AND APPROVED** this the 19<sup>th</sup> day of May, 2005.



M A Y O R

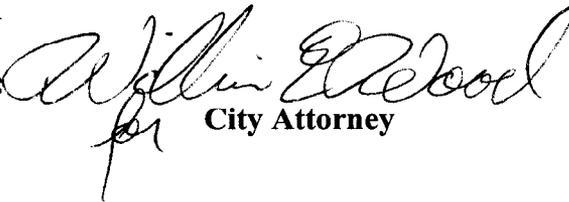
EDWARD D. GARZA

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



for City Attorney